

REMARKS/ARGUMENTS

Reconsideration and withdrawal of all outstanding grounds of objection and/or rejection are respectfully requested in light of the above amendments and the remarks that follow.

The Examiner has objected to claim 1 based on an informality identified on page 2 of the Official Action.

In response, applicants have amended claim 1 by adding a comma before “said connecting member” as an alternative to the suggestion by the Examiner to add the word “and” before “said connecting member.” The addition of the comma serves a similar purpose and resolves the objection.

The Examiner has objected to claims 13 and 14 for use of the word “apparatus” in the preamble, noting correctly that apparatus should be deleted and “system” should be inserted therefor. Applicants have made the suggested change to both claims 13 and 14.

The Examiner has rejected claims 1, 2 and 4-17 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. According to the Examiner, the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed, had possession of the claimed invention. According to the Examiner, the language “no more than a pair of plates” in claim 1 and “no more than two plates” in claim 12 does not have clear support in the originally filed disclosure.

In response, applicants have amended page 8 of the disclosure to indicate that Figures 1 and 2 illustrate an anchor body 30 comprised with no more than a pair of vertically extending plates 34, 35, accurately depicting what is shown in those figures. The rejection is therefore overcome.

The Examiner has rejected claims 1, 2 and 4-11 under 35 U.S.C. § 103 as unpatentable over Marandi in view of Heenan for the reasons stated on pages 3 through 6 of the Official Action. In responding arguments presented by applicants in the previous response, the Examiner simply notes that the primary reference to Marandi discloses two plates and that these plates are altered to obtain the desired orientation of plates, apparently as taught by Heenan.

Independent claim 1 has been further amended to require that the lateral opening be defined by a plurality of angularly related flats extending between upper edges of the plates, connecting member including an arm having a first flat of said plurality of flats in generally horizontal registration with the second flat of said plurality of flats, first and second flats lying diametrically opposite one another and to one side of the vertical line, the first flat parallel to one of the pair of plates and the second flat parallel to the first flat and perpendicular to the other of said pair of plates.

In Marandi, the flats 50 and 53 are parallel to each other and also parallel to the plates 31, 33. Even assuming it would have been obvious to one of ordinary skill in the art to add additional supporting plates as taught by Heenan, there is no disclosure or suggestion in either of the references that the anchor body flats be arranged as claimed, relative to each other and relative to the supporting plates. It is only with the use of impermissible hindsight gained from applicants' own disclosure that the claimed arrangement can be obtained from the combined teachings of the references. This is particularly true since Heenan provides no lateral opening for receiving corresponding flats on a valve member and therefore teaches nothing with respect to where any such additional plate member would be located relative to the valve engaging flats in Marandi, further noting that claim 1 requires that when the planes in which the plates lie are extended, they intersect one another along a generally vertical line lying within the anchor body.

For the above reasons, it is respectfully submitted that claims 1, 2, 4, 8 and 11 are clearly patentable over the applied combination of references. Dependent claims 5-7, 9 and 10 have been canceled.

The Examiner has rejected claims 12, 13, 15 and 16 under 35 U.S.C. § 103 as unpatentable over Marandi in view of Nelson.

According to the Examiner, it would have been obvious to one of ordinary skill in the art to modify Marandi to utilize the supporting plates of Nelson in order to compact the earth to provide stabilization if a torque is applied to the anchored valve.

No combination of Marandi and Nelson can be made such that the presently claimed invention is obtained absent the use of impermissible hindsight. In this regard, note that Nelson expressly discloses that:

It is important that these fins be arranged substantially approximately 120° apart, in order to achieve an angular compaction of the earth when surrounding the post. Other angular arrangements have not proved to be as effective in compacting the ground.

Thus, if Nelson teaches anything of use in Marandi is that Marandi employs three supporting plates, equidistantly spaced at 120° angles about the supply pipe 12 of Marandi. As explained above, the result of any such combination is not that which is claimed here in amended claim 12 which has been amended in a manner similar to independent claim 1.

Claims 13 and 15 are patentable by reason of their dependence upon claim 12 and claim 15 is also patentable in its own right since the combined teachings of the references fail to disclose or teach the subject matter thereof.

Claim 16 has been canceled.

The Examiner has also rejected claims 12, 14 and 17 under 35 U.S.C. § 103 as unpatentable over Marandi in view of Lovell (US 3,850,128) and further in view of Nelson.

Lovell is cited as disclosing at least first and second plates 18 spaced from one another and extending generally vertically in discrete planes nonparallel to one another. According to the Examiner, it would have been obvious to incorporate two of the plates 18 from Lovell with the spade portion of Nelson into the anchor of Marandi in order to add more stability.

The disassembly of the prior art and reassembly via choosing only bits and pieces in order to arrive at the claimed invention is wholly improper as a basis for rejection under 35 U.S.C. § 103. There is simply no suggestion and/or motivation to reconstruct the prior art as proposed. This is particularly true of the invention as defined in claim 12, as amended (claim 17 has been canceled), and particularly with respect to the arrangement of flats in the lateral opening that receives the valve, and the relationship of those flats to the supporting plates.


It is respectfully submitted that the application including all of the remaining claims is now in condition for immediate allowance and early passage to issue is requested. In the event, however, any small matters remain outstanding, the Examiner is encouraged to telephone the undersigned so that the prosecution of this application can be expeditiously concluded.

The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

RIORDAN ET AL.
Appl. No. 10/669,322

Respectfully submitted,

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